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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,319	02/05/2002	Alan F. Savicki	492.216	3711

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EXAMINER

BRITTAIN, JAMES R

ART UNIT PAPER NUMBER

3677

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/049,319

Applicant(s)

SAVICKI, ALAN F.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no disclosure in the application as filed for the description of the slider as now claimed as having a separator "fixed" relative to the positions of the first and second sidewalls of the slider (claim 1, line 9; claim 16, line 10; claim 17, line 9). This language was added by the amendment received March 6, 2003. A description of the function of the separator is found on page 6, lines 15-20 and 26-33. These portions of the specification have been cited by applicant as providing support for the term "fixed" as being in the application as filed (Remarks, page 3, ¶4). The pertinent portion of page 6 is reproduced below.

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15. The slider 132 includes a separator 143 having a first end and a second end wherein the first end may be wider than the second end. In addition, the separator 143 may be triangular in shape. When the slider is moved in the occlusion direction, the separator 143 deoccludes the fastening strips 130, 131, as shown in Fig. 3. The separator 143 engages the flange portions 153, 163 and the flange portions 153, 163 move outward in the Y axis 104. This action causes the closure elements 134, 136 to deocclude. In this embodiment, the upper hook portions 142, 152 and the lower hook portions 144, 154 deocclude.

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In accordance with the present invention, and as shown in Figs. 4-6, the flange portions 153, 163 include altered flange portions 172, 174 near the first end 127 for facilitating the closure of the fastening strips at the first end 127. In this embodiment, the altered flange portions 172, 174 are created by flattening the flange portions 153, 163 near the first end 127. When the flange portions are flattened, the plastic may move upward. In another embodiment, the altered flange portions are

There is no support for the amendment to claims 1, 16, and 17 made in the response received March 6, 2003 to indicate that the separator is "fixed" relative to the positions of the first and second sidewalls of the slider. The specification is silent and does not preclude movement of the separator relative to the first and second sidewalls of the slider. The remaining claims incorporate new matter through their dependence on claim 1.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13, 14, 16, and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Herrington et al. (US 5020194).

Herrington et al. (Figure 15) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends by arrowhead profile elements, the fastening strips being secured together at the first and second ends; a slider 11 slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a fixed separator 11f between the slider sidewalls for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; the first and second fastening strips include first flange and second flange portions 19, 20 which extend inward toward the opposite fastening strip; and there are first and second altered flange portions defined by the notches 15b, 16b near the ends of the first and second fastening strips that receive the separator 11. As to claims 5-8 and 10, the method steps of "flattening" and "removing" don't create a finished article of a different structure than that shown by Herrington et al. and the device of Herrington et al. is fully capable of having the final product structure created by a flattening or removal of material. Applicant has shown no characteristic from these processes that would create a different product from that taught by Herrington et al.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington et al. (US 5020194) in view of Porchia et al. (US 5664299).

Herrington et al. (Figure 15) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends by arrowhead profile elements, the fastening strips being secured together at the first and second ends; a slider 11 slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a fixed separator 11f between the slider sidewalls for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; the first and second fastening strips include first flange and second flange portions 19, 20 which extend inward toward the opposite fastening strip; and there are first and second altered flange portions defined by the notches 15b, 16b near the ends of the first and second fastening strips that receive the separator 11. The differences are that the closure elements are not both U-channel elements. However, Porchia et al. (Figures 1-5) teaches that it is conventional to utilize interengaging U-channel elements 16, 17 so as to better secure the fastening strips together. It would have been obvious to modify the closure device of Herrington et al. so that the closure elements are both U-channel elements in view of Porchia et al. (Figures 1, 2) teaching that it is conventional to utilize interengaging U-channel elements 16, 17 so as to better secure the fastening strips together.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington et al. (US 5020194) in view of Herrington (US 5007143).

Herrington et al. (US 5020194) (Figure 15) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends by arrowhead profile elements, the fastening strips being secured together at the first and second ends; a slider 11 slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a fixed separator 11f between the slider sidewalls for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; the first and second fastening strips include first flange and second flange portions 19, 20 which extend inward toward the opposite fastening strip; and there are first and second altered flange portions defined by the notches 15b, 16b near the ends of the first and second fastening strips that receive the separator 11. The difference is that the closure elements are not rolling action type fastening strips. However, Herrington (US 5007143) (Figures 4-7) teaches that it is conventional to utilize interengaging rolling action type elements 16, 17 so as to better secure the fastening strips together. It would have been obvious to modify the closure device of Herrington et al. (US 5020194) so that the closure elements are rolling action type elements in view of Herrington et al. (US 5007146) (Figures 4-7) teaching that it is conventional to utilize rolling action type elements 16, 17 so as to better secure the fastening strips together.

Claims 1-10, 13, 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 5871281) in view of Stolmeier et al. (US 6257763).

Stolmeier et al. (US 5871281) (Figures 3-7) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends by arrowhead profile elements, the fastening strips being secured together at the first and second ends; a slider 21 shown in figures 6 and 7 as slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a separator 34 between sidewalls for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; and the first and second fastening strips include first flange and second flange portions which extend inwardly toward the opposite fastening strip; and first and second altered flange portions defined by the notches 37, 38 near the ends of the first and second fastening strips that receive the separator 34. Stolmeier et al. (US 5871281) also disclose that the tab can be molded or separately attached such as to project downward into the notch or even into the space between the complementary rib and groove 18P and 19G as shown in figures 6 and 7 (col. 4, lines 38-42). The difference is that it is not stated that the separator shown in figures 6 and 7 as molded or separately attached so as to project downward into the notch or space between the complementary rib and groove is also "fixed". However, Stolmeier et al. (US 6257763) (figure 3) teaches slider structure for a slide fastener of a compartment wherein it is desirable to have the separator 36 fixed (col. 3, lines 8-13) so as to provide structure that maintains its configuration so as to more easily open the fastener. It would have been obvious to modify the fastener of Stolmeier et al. (US 5871281) so that the

separator shown in figures 6 and 7 as molded or separately attached so as to project downward into the notch or space between the complementary rib and groove is also "fixed" in view of Stolmeier et al. (US 6257763) (figure 3) teaching slider structure for a slide fastener of a compartment wherein it is desirable to have the separator 36 fixed (col. 3, lines 8-13) so as to provide structure that maintains its configuration so as to more easily open the fastener. As to claims 5-8 and 10, the method steps of "flattening" and "removing" don't create a finished article of a different structure than that shown by Stolmeier et al. (US 5871281) and the device of Stolmeier et al. (US 5871281) is fully capable of having the final product structure created by a flattening or removal of material. Applicant has shown no characteristic from these processes that would create a different product from that taught by Stolmeier et al. (US 5871281).

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 5871281) in view of Stolmeier et al. (US 6257763) as applied to claim 1 above, and further in view of Porchia et al. (US 5664299).

Further modification of the closure elements of Stolmeier et al. (US 5871281) so that the closure elements are both U-channel elements rather than arrowhead profiled elements would have been obvious in view of Porchia et al. (Figures 1, 2) teaching that it is conventional to utilize interengaging U-channel elements 16, 17 so as to better secure the fastening strips together.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 5871281) in view of Stolmeier et al. (US 6257763) as applied to claim 1 above, and further in view of Herrington (US 5007143).

Further modification of the closure elements of Stolmeier et al. (US 5871281) so that the closure elements are rolling action type elements rather than arrowhead profiled elements would have been obvious in view of Porchia et al. (Figures 4-7) teaching that it is conventional to utilize rolling action type elements 16, 17 so as to better secure the fastening strips together.

Response to Arguments

Applicant's arguments filed March 6, 2003 have been fully considered but they are not persuasive. As indicated above the amendment indicating the separator position is fixed relative to the slider sidewalls is considered new matter for the reasons given above. There is no support in the specification as filed for the separator position being fixed.

The patents of Herrington et al. (US 5020194) and Stolmeier et al. (US 6257763) are utilized because of the newly presented limitation directed to the slider separator being fixed relative to the slider sidewalls. Each shows such structure.

While Stolmeier et al. (US 5871281) provide for the separator to move, the fixing of the separator so as to have a more secure locking function is old and well known and is taught by Stolmeier et al. (US 6257763). This would not destroy the teachings of Stolmeier et al. (US 5871281) since the device would readily function as indicated by Stolmeier et al. (US 6257763).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M,W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'J. R. Brittain', with a stylized flourish at the end.

James R. Brittain
Primary Examiner
Art Unit 3677

JRB
May 16, 2003